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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/534,711	03/24/2000	Philip O Livingston	53437-A-PCT-US/JPW/JL	2601		
57539	11/03/2006		EXAMINER			
COOPER & DUNHAM LLP 1185 AVENUE OF THE AMERICAS			YAEN, CHRI	YAEN, CHRISTOPHER H		
NEW YORK, NY 10036			ART UNIT	PAPER NUMBER		
,			1643			
			DATE MAILED: 11/03/2000	DATE MAILED: 11/03/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Og/534,711			Application No.	plication No. Applicant(s)				
Christopher H. Yaen The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. If INO period for reply is specified above, the maximum statutory period will apply and will expire SIX (5) MONTHS from the matering date of this communication. If the period for reply is specified above, the maximum statutory period will apply and will expire SIX (5) MONTHS from the matering date of this communication. Feature is replication for SIX (5) MONTHS from the matering date of this communication. Peature is present than splitting the smooth of the material statute is the period will expire SIX (5) MONTHS from the matering date of this communication. Peature is present than splitting the smooth of the statute of the communication of the scale of this communication, even if limits flat, may reduce any source parameter than splitting the smooth of the scale of the communication, even if limits flat, may reduce any source parameter than splitting the smooth of the scale of this communication, even if limits flat, may reduce any source parameter of the scale of this communication, even if limits flat, and the scale of the communication is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex partie Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1.6-8.11 and 14 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5) Claim(s) 1.6-8.11 and 14 is/are rejected. 7) Claim(s) 1.6-8.11 and 14 is/are rejected. 8) Claim(s) 1.6-8.11 and 14 is/are rejected. 8) Claim(s) 1.6-8.11 and 14 is/are rejected. 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on	Office Action Summary		09/534,711	LIVINGSTON ET AL.				
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DETAILED ACTION

Re: Livingston et al

1. The amendment filed 8/15/2006 is acknowledged and entered into the record.

Accordingly, claims 2-5,9-10,12-13, and 15-16 are canceled without prejudice or

disclaimer.

2. Claims 1,6-8,11, and 14 are pending and examined on the merits.

3. The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

Claim Rejections Maintained - 35 USC § 103

4. The rejection of claims 1,6-8,11, and 14 under 35 USC § 103(a) as being obvious over Jennemann *et al*, in view of Vangsted *et al* and Kensil *et al* is maintained for the reasons of record. Applicant argues that the cited prior art is not obvious in view of the cited references. Specifically, applicant argues the cited references at most teach a sequential administration a conjugate and an adjuvant and fail to specifically teach a single composition as instantly claimed. Applicant argues that lack of motivation in the cited art references to motivate one of skill in the art to administer as a single composition. Applicant's arguments have been carefully considered but are not deemed persuasive to overcome the rejection of record.

The reason or motivation to modify a reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or

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result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972). Morevoer, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). In this case, applicant has not provided any indication that the combination of the components into a single composition would provided any added benefit over the addition of the components sequentially.

In addition, one of skill in the art would be motivated to combine two products into a single composition. The strongest rationale for combining references is a recognition, expressly or impliedly in the prior art or drawn from a convincing line of reasoning based on established scientific principles or legal precedent, that some advantage or expected beneficial result would have been produced by their combination. In re Sernaker, 702 F.2d 989, 994-95, 217 USPQ 1, 5-6 (Fed. Cir. 1983). It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose.... [The idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980). In this case, both compositions have been taught in the prior art as indicated by Jenneman *et al* and as conceded by the applicant in a sequential manner. Therefore, they have been taught as being useful for the same purpose and it is prima facie obvious to combine into a single composition.

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Therefore, the rejection of claims under 35 USC 103(a) as being obvious is maintained for the reasons of record.

Conclusion

5. **No claim is allowed. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Yaen Art Unit 1643 October 24, 2006 CHRISTOPHER H. YAEN
PRIMARY EXAMINER